SINGLE BENCH (5)

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition (C) No. 6995 of 2006

PETITIONER:

Kishanlal Sarthi,
S/o Pakluram Sarthi,
Aged about 32 years,
Sarpanch,
Gram Panchayat: Chandrapur,
Teh. & Distt.: Janjgir-Champa,
Chhattisgarh.

- Versus -

RESPONDENTS:

1. State of Chhattisgarh,
Through the Secretary,
Department of Panchayat & Rural Development,
Mantralaya, D.K.S. Bhawan,
Raipur, Chhattisgarh.

P.R. No. 7105/06
Presented by Shri M. Asia
dated 6-12-06

2. Collector, Janjgir-Champa,
District: Janjgir-Champa,
Chhattisgarh.

3. Sub Divisional Officer
(Revenue)/Prescribed Officer,
Dabhra,
District: Janjgir-Champa,
Chhattisgarh.

नोटरी शकुन्तला (बांदी) सक्सेना C.G.16/10/10 2005 जिला बिलासपुर छत्तीसगढ़ शासन

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4. Gram Panchayat: Chandrapur,
Through the Secretary,
Gram Panchayat: Chandrapur,
Teh. & Distt.: Janjgir-Champa,
Chhattisgarh.

5. Janpad Panchayat: Dabhra,
Through the Chief Executive Officer,
Janpad Panchayat: Dabhra,
District: Janjgir-Champa,
Chhattisgarh.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT/WRITS, DIRECTIONS ETC., IN THE NATURE OF MANDAMUS, CERTIORARI AND/OR ANY OTHER SUITABLE WRIT OF LIKE NATURE

XI-HC-22

(36)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... (WP(C) 6995/06 **सन्** / **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

02.01.2007

Shri Sanjay K Agrawal with Shri HS Patel, counsel for the petitioner.

Shri AS Kachhawaha, Government Advocate for respondents No.1 to 4 / State.

None for respondent No.5.

Heard on admission and M.(W.)P.No.4969/2006.

Factual matrix of the case in brief is that, a complaint by the villagers of Chandrapur was made against the Sarpanch and Secretary; that was enquired by Tehasildar. To facilitate his enquiry, no documents were made available to him. Therefore, on those lapses, show cause notice dated 07.11.2006 i.e. Annexure P/3 was issued to the petitioner, who was Sarpanch. Vide department order dated 30.10.2006, an enquiry party was constituted and it enquired the complaint against the petitioner and Panchayat Secretary in detail and filed their enquiry report. On that report, 11 charges have been framed against the petitioner and regular enquiry has been started on those charges. As empowered under Section 39 (i) (b) of the Chhattisgarh Panchayat Raj Adhiniyam 1993, petitioner was suspended vide order dated 29.11.2006 i.e. Annexure P/8.

Petitioner's contention is that, Prescribed Authority is acting malafidely. He issued two charge sheets for the same charges, and two enquiries have been initiated and without waiting for 90 days, election proceedings have been initiated. On oppugnation, learned counsel for the State urged that for different charges, two separate enquiries have

XI-HC-22

(39)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... wp 6995/ ..... **सन्** 2006

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

been initiated and looking to the gravity and nature of the charges, Prescribed Authority has invoked its power and jurisdiction and suspended the Sarpanch. 90 Days' period has been fixed only for the State Government to confirm the suspension. No election proceeding is in vogue.

I have gone through all the material annexed along with the petition. In show cause notice dated 07.11.2006, charges have been leveled against the petitioner for non-production of various documents whereas after complete enquiry by the enquiry party, whatever allegations have been found against the petitioner, with reference to those allegations, 11 detailed charges have been framed against the petitioner and accordingly, a show cause notice dated 16.11.2006 has been served on him. Charges against the petitioner relate to mis-appropriation of Panchayat fund.

Neither this is a case of two distinct enquiries for the same charges nor initiation of enquiry or suspension of Sarpanch is without jurisdiction or against the law. Therefore, no interference is called for by stepping in Article 226 of the Constitution of India.

Accordingly, WP No.6995/2006 & M.(W.)P.No.4969/2006 are dismissed.

Sd/-
V.K.Shrivastava
Judge

padma

(पीछे देखिये)